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PART IV
GOVERNMENT OF MEGHALAYA
DISTRICT COUNCIL AFFAIRS DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

The 29th December, 2008.

No.DC/L/VII/15/6/2008/2195.—In pursuance of paragraph 11 of the Sixth Schedule to the Constitution of India, the following Amendment Rules of the Khasi Hills Autonomous District Council is hereby published for general information:-

**THE KHASI HILLS AUTONOMOUS DISTRICT (CONSTITUTION OF DISTRICT COUNCILS)
(AMENDMENT) RULES, 2008.**

(Passed by the Khasi Hills Autonomous District Council on the 15th December, 2008)

(Received the approval of the Governor on 25th December, 2008)

(Published in the Meghalaya Gazette Extraordinary on 29th December, 2008)

to further amend the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, as amended.

Preambles: Whereas it is expedient to further amend the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951 as amended, herein after referred to as the “Principal Rules” in the manner, herein appearing.

It is hereby enacted by the Council in the Fifty-ninth Year of the Republic of India as follows:-

1. **Short title, extent and commencement:-**

- (i) These Rules may be called the Khasi Hills Autonomous District (Constitution of District Councils) (Amendment) Rules, 2008.
- (ii) They shall apply to the whole of the Khasi Hills Autonomous Districts.
- (iii) They shall come into force at once.

2. All words and expressions shall have the same meaning as defined in the Principal Rules.

3. **Amendment to Rule 129 of Chapter II of the Principal Rules: -**

For the words “two weeks” occurring in the paragraph 2 of sub rule (3) shall be substituted by the words “three weeks”

4. **Amendment to Rule 133 of Chapter IV of the Principal Rules:-**

For the words "Three weeks" occurring in between the words "than" and "after" in first line of clause (a) of sub rule (2) shall be deleted and be substituted with the words "one week excluding public holiday".

5. **Amendment to Rule 134 of Chapter IV of the Principal Rules:-**

For the figures and words of "Rs. 2000/- (Rupees two thousand)" occurring under sub rule (1) shall be deleted and be substituted by the figures and words of "Rs. 2,500/- (Rupees two thousand five hundred)."

6. **Amendment to Rule 138 of Chapter V of the Principal Rules:-**

(i) existing sub rule (2) shall be deleted and be substituted as follows:-

"(2) Notwithstanding anything contained in this rule, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such Constituency or Constituencies as the Governor may, having regard to the circumstances of each case, specify".

Explanation:- [For the purpose of this section, "**Voting Machine**" means an apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this rule shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any Election].

7. **Amendment to Rule 139 of Chapter V of the Principal Rules:-**

Existing Sub - Rule (2), (3), and (4) [of Rules 139 of the Principal Rules] shall be substituted by the following:-

"(2) No person shall vote at an election in any constituency if he is for the time being not entitled to vote under the provisions of rule 128 read with Rules 212, 213 and 214".

"(3) No person shall be entitled to be registered in the electoral roll for more than one constituency."

"(4) No person shall be entitled to be registered in the electoral roll for any constituency more than once."

8. **Amendment to Rule 141 of Chapter V of the Principal Rules:-**

(i) Insert the words "**after approval by the Governor**" in between the word "them" and the full stop (.)

(ii) Sub - Rule (2) of Rule 141 shall be deleted and substituted by the following: -

"(2) Not less than seven days before the date or the first date of the dates fixed for the nomination, the Returning Officer shall post in his Office and published in such manner as he may consider necessary a list showing the polling stations including polling areas as approved by the Governor for which each of such Station has been approved and the hours during which each such station shall remain open for the recording of votes".

(iii) The words "Selection" in the existing marginal notes appearing under this Rule shall be deleted and be substituted with the word "Recommendation".

9. **Amendment to Rule 143 of Chapter V of the Principal Rules:-**

(i) Sub Rule (1) shall be deleted and substituted by the following:-

"143 (I) The Presiding Officer shall regulate the number of electors, to be admitted at any one time inside the polling Station and shall exclude there from all persons other than.

(a) Polling Officers;

(b) public servants on duty in connection with the election;

(c) person authorized by the Governor;"

(ii) after Clause (c) of Sub - Rule (1) above, new clauses (d), (e), (f) and (g) shall be added as follows: -

"(d) candidates, their election agents and one Polling Agent of each candidates;

- (e) a child in arms accompanying an elector;
- (f) a person accompanying a blind or inform elector who cannot move without help; and
- (g) Such other persons as the Presiding Officer may from time to time admit for the purpose of identifying electors."
- (iii) The existing marginal Notes appearing under this Rule shall be deleted and be substituted with the words "**Admission to polling stations**".

10. Amendment to Rule 143-B of Chapter V of the Principal Rules:-

For the words 'Ballot boxes' appearing in the heading and marginal notes of Rule 143-3 shall be deleted and substituted by the word "EVMS"

- (i) Existing Sub Rule (1), (2) and (3) of Rule 143 B of the Principal Rules shall be deleted and substituted by the following: -
 - "(1) If at any election any ballot unit or control unit of the EVM or EVMS is or are unlawfully taken out of the custody of the Returning Officer or of any Presiding Officer, or is or are in any way tampered with or is or are either accidentally or intentionally destroyed or lost, the election to which such EVM or EVMS relate shall be void, but only in respect of the polling at the polling station or stations provided under rule 141 at which such ballot EVM or EVMS was or were used and no further."
 - "(2) If any voting machine develops a mechanical failure during the course of the recording of vote: or"
 - "(3) If any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll".
- (ii) **After the substituted Sub-rule (3) above, new sub-rule (4) and sub-rule (5) shall be added as follows:-**
 - "(4) Whenever the polling station or stations shall become void under sub-rule (1), (2) and (3) the Returning Officer shall as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the Governor and shall, with the previous approval of the Governor, appoint another date for the taking of a fresh poll in such or every such polling station and fix the hours during which the poll will be taken, and shall not count the votes cast at such election until such fresh poll shall have been completed.
 - "(5) In every such cause as aforesaid, the Returning Officer shall arrange/notify a fresh poll in such or every such polling station on the day so appointed by him and shall notify the day so appointed and the hours of polling so fixed by him in such manner as he may consider necessary, and the provision of these rules or orders, if any, made there under shall apply to every such fresh poll as they apply to the original poll."

11. Amendment to Rule 145 of Chapter V of the Principal Rules:-

- (i) Existing 145 shall be deleted and substituted by the following namely: -
 - "(1) Subject to Rule 141, each polling station shall be provided with necessary Electronic Voting Machines (EVMs) by the Returning Officer".
 - "(2) Every Electronic Voting Machines shall have a control unit and a balloting unit and shall be of the designs as approved by the Election Commission of India."
- (ii) The existing marginal Notes shall be deleted and substituted with the words "Design of Electronic Voting Machines".

12. Insertion of new Rules 145 A and 145 B :-

- (i) After Rule 145 so substituted, new Rules 145 A and 145 B shall be inserted as follows:-

"145 A (1) Preparation of voting machine by the Returning Officer:-

- (a) The balloting unit of the Electronic Voting Machine shall contain those particulars which have been specified by the Election Commission and in English language.
- (b) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.
- (c) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner".

"(2) Subject to the foregoing provision of this rule, the Returning Officer shall: -

- (a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
- (b) set the number of contesting candidates set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same."
- (ii) A marginal note with the words **"Preparation of EVMs and symbols by the Returning Officer before handing over to the Presiding Officers for conduct of poll"** shall be added.
- (iii) After Rule 145 A, new Rule 145 B shall be inserted as follows with marginal notes "Arrangement at the Polling station".

"145 B. Arrangements at the polling stations:-

- (1) Outside each polling station there shall be displayed prominently.
 - (a) A notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and"
 - (b) a copy of the list of contesting candidates".
- "(2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.
- "(3) The Returning Officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.
- "(4) Without prejudice to the provisions of sub-rule (3), the Returning Officer may, with the previous approval of the Governor, provide one common voting machine for two or more polling stations located in the same premises."

13. Amendment to Rule 146 of Chapter V of the Principal Rules:-

- (i) The existing Rule 146 shall be deleted and substituted by the following:-
 - "(1) Preparation of voting machine for poll. - (1) the control unit and balloting unit of every voting machine used at polling station shall bear a label marked with -
 - (a) the serial number, if any, and the name of the constituency;
 - (b) the serial number and name of the polling station or stations as the case may be;
 - (c) the serial number of the unit;
 - (d) the date of poll".
 - "(2) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the Polling Agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (4)".

“(3) A paper seal shall be used for securing the control unit of the voting machine, and the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the Polling Agents present as the desirous of affixing the same”.

“(4) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same”.

“(5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed; it is not possible to press the “result button” without breaking the seal”.

“(6) The control unit shall be closed and secured and placed in full view of the Presiding Officer and the Polling Agents and the balloting unit placed in the voting compartment.”

(ii) The Existing marginal notes shall be deleted and substituted by words “preparation of voting machine for poll by Presiding Officer”.

14. **Insertion of new Rule 146 A in Principal Rules:-**

(i) After Rule 146 so substituted, a new rule namely 146 A with the marginal notes namely, “**Sealing of Voting machine after poll**” shall be inserted as follows: -

“**146 A** (1) As soon as practicable after the closing of poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit”.

“(2) The control unit and the balloting unit thereafter be sealed, and secure separately in such manner as prescribed by the Election Commission, and the seal used for securing them shall be so affixed that it will not be possible to open the unit without breaking the seals”.

“(3) The Polling agent present at the Polling station, who desires to affix their seals, shall be permitted to do so”.

15. **Amendment to Rule 147 of Chapter V of the Principal Rules:-**

(i) The existing rule 147 shall be deleted and substituted as follow:-

“(1) Before the Polling station is opened for the recording of vote, the Presiding Officer shall read to such person as may be present the provisions of Rule 200 and shall explain the substance thereof in the language or languages as may be understood by such persons.”

“(2) Every elector who has been permitted to vote shall maintain secrecy of voting within the Polling station and for that purpose observe the voting procedure hereinafter laid down”.

“(3) Immediately on being permitted to vote the elector shall proceed to the Presiding Officer of the Polling Officer in charge of the Control unit of the voting machine who shall, by pressing the appropriate button and the Control unit; activate the balloting unit; for recording of elector’s vote”.

“(4) The elector shall thereafter forthwith-

(a) Proceed to the voting compartment

(b) Record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom who intends to vote; and

(c) Come out of the voting compartment and leave the Polling station”,

“(5) Every elector shall vote without undue delay”.

“(6) No elector shall be allowed to enter the voting compartment when another elector is inside it.

“(7) If an elector who has been permitted to vote under rule 153 refuses after warning given by the Presiding Officer to observe the procedure laid down in sub-rule (4) of the said Rules, the Presiding Officer or a Polling Officer under the direction of the Presiding Officer shall not allowed such elector to vote.”

“(8) Where an elector is not allowed to vote under Sub-Rule (7), a remark to the effect that voting procedure has been violated shall be made against the elector’s name in the register of the voters in Appendix-XVIII by the Presiding Officer under his signature.”

16. **Amendment to Rule 148 of Chapter V of the Principal Rules:-**

Existing Rule 148 shall be deleted and substituted with the following along with marginal notes, **Marked copy of electoral roll: -**

“Marked copy of electoral roll:- Immediately before the commencement of the Poll, the Presiding Officer shall also demonstrate to the Polling Agents and others present that the marked copy of the electoral roll to be used during the Poll does not contain any entry other than those to whom the Returning Officer has issued and EDC/Postal Ballot Paper.”

17. **Insertion of new Rule 148 A of Chapter V in the Principle Rules:-**

After the substituted Rule 148, a new rule 148 A along with sub rule shall be inserted as follows: -

148 A “(1) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll in a free and fair manner.

“(2) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorized by him in this behalf shall check the elector’s name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.”

“(3) In deciding the right of a person to cast his vote, the Presiding Officer or the polling officer, as the case may be, shall over-look the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the electoral to whom such entry relates.”

18. **Insertion of Rule 149 A in Chapter V of the Principal Rules:-**

After Rule 149 of the Principal Rule, a new sub rule 149 A be inserted as follows: -

“149 A before permitting and elector to vote, the Presiding Officer shall-

- (a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a Register of Voters in Appendix-XVIII.
- (b) obtain the signature or the thumb impression of the elector of the said register of votes; and
- (c) mark the name of the elector in the marked copy of the elector roll to indicate that he has been allowed to vote.

Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

(2) Notwithstanding anything contained in clause (b), it shall be necessary for any Presiding Officer or Polling Officer or any other Officer to attest the thumb impression of the elector on the register of voters.

19. **Amendment to Rule 150 of Chapter V of the Principal Rules:-**

(i) The entire Rule 150 shall be deleted and substituted as follows:

Recording of votes of blind or infirm electors. (I) If the Presiding Officer is satisfied that owing to the blindness or other physical infirmities an elector is unable to recognize the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the Presiding Officer shall permit the elector to take with him a companion of not less than 18 years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes;

Provided that no person shall be permitted to act as the companion for more than one elector at any Polling station on the same day.

Provided further that before any person is permitted to act as the companion of an elector on any day under

this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.”

“(2) The Presiding Officer shall keep a record in Appendix XVIII of all cases under this Rule.”

(ii) The existing marginal Notes shall be deleted and substituted with the words “**Recording of votes of blind or infirm electors**”.

20. The Existing rules 151 and 152 in Chapter V of Principal Rules shall be omitted.

21. **Amendment of Rule 154 of Chapter V of the Principal Rules** shall be deleted and substituted by existing Rule 154

“(1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in English.”

“(2) Every such elector shall before being supplied with tendered ballot paper write his name against the entry relating to him in Appendix IX.”

“(3) on receiving the ballot paper he shall forthwith-

- i) proceed to the voting compartment;
- ii) record there his vote on the ballot paper by placing a cross mark ‘X’ with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote
- (a) fold the ballot paper so as to conceal his vote;
- (b) show to the Presiding Officer, if required, the distinguishing mark on the ballot paper;
- (c) give it to the Presiding Officer who shall place it in a cover specially kept for the purpose; and
- (d) leave the Polling station.”

“(4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistant; the Presiding Officer shall permit him to take with him a companion, subjected to the same conditions and after following the same procedure as laid down in Rule 150 for recording of vote in accordance with his wishes.”

22. **Amendment of Rule 155 of Chapter V of the Principal Rules:-**

The existing Rule 155 shall be deleted and substituted by the following: -

“(1) any Polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the Presiding Officer for each such challenge.

(2) on such deposit being made, the Presiding Officer shall-

- (a) warn the person challenged of the penalty for personation;
- (b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;
- (c) enter his name and address in the list of challenged votes in Appendix-X; and
- (d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose-

- (a) Required the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence of proof of his identity.

(b) Put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) Administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established he shall allowed the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to the Government and in any other case, return to the challenger at the conclusion of the inquiry."

23. The entire Rule of 156 shall be omitted .

24. **Amendment of Rule 157 of Chapter V of the Principal Rules:-**

The words "to the Assam Legislative Assembly and House of People or the District Council" occurring in between the word "election" and "at" in sub-Rule (1) shall be deleted.

25. **Amendment of Rule 159 of Chapter VII of the Principal Rules:-**

(i) The existing Rule-159 shall be deleted and substituted by the following:-

Closing of Poll- (1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 140 and shall not thereafter admit any elector into the polling station.

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

"(2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the Presiding Officer and his decision shall be final."

(ii) The existing marginal notes shall be deleted and substituted by the words "Closing of Poll" .

26. **Amendment of Rule 160 of Chapter V of the Principal Rules:-**

(i) The existing rules-160 shall be deleted and substituted by the following:-

"Accounts of votes recorded.- (1) The Presiding Officer shall at the close of the poll prepare an account of votes recorded in Appendix - XI and enclose it in separate cover with the words 'Account of Votes Recorded' super - scribed thereon"

"(2) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form Appendix-XI after obtaining a receipt from the said agent therefore and shall attest it as true copy"

(ii) The existing marginal notes to rule 160 shall be deleted and substituted by the words "Accounts of votes recorded" .

27. **Amendment of Rule 161 of Chapter VI of the Principal Rules:-**

(i) The words "appointment" occurring in the existing marginal notes to rule 161 shall be deleted and substituted by the words "Notification".

(ii) In existing sub-rule (3) after words 'boxes' and used "words" or Electronic Voting Machines shall be inserted.

28. **Amendment of Rule 163 of Chapter VII of the Principal Rules:-**

(i) The first paragraph of rule 163 shall be renumbered as sub-rule (1) and the clauses (a), (b), (c), (d), (e), (f), (g), and (h) shall be deleted.

(ii) Subsequently new sub-rules (2), (3), (4) and (5) shall be added with marginal notes "Scrutiny and inspection of voting machines" as follows:-

“(2) The Returning Office may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously”

“(3) Before the votes recorded in any control unit of voting machine are counted under sub-Rule (3), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact”.

“(4) The Returning Officer shall satisfy himself that none of the voting machines has in fact been tampered with”.

“(5) If the Returning Officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in rule 143-A or 143-B, as may be applicable in respect of the polling stations where that machine was used.”

29. Insertion of new Rule 163 A in Chapter VI of the Principle Rules:-

(i) After the substituted Rule 163, a new rule 163A along with sub rule shall be inserted with the followings

“**163A** (1) The Retuning Officer shall ensure proper mixing of polling personnel drawn from different offices and departments at the time of formation of a polling party”.

“(2) Presiding Officers and Polling Officers are to be classified on the basis of scale of pay rank. As far as practicable, Gazette Officers and officers in supervisory capacity only may be deployed as Presiding Officers. No person will be assigned polling duties in a District Council Constituency in which he is posted or in which he resides or the Constituency, which is his home Constituency”.

(iii) A new marginal notes to rule 163 shall be inserted with the words “Proper mixing of polling Personnel drawn from different offices”.

30. Amendment of Rule 164 of Chapter VI of the Principal Rules:-

The existing clauses ‘g’ and ‘h’ to rule 164 (1) shall be deleted.

31. Amendment of Rule 165 of Chapter VI of the Principal Rules:-

The existing sub rule (2) of rule 165 shall be deleted and substituted with the following:

“(2) If after the counting of votes is completed, an inequality of votes is found to exist between any candidates, and the addition of one votes will entitled any of the candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote”.

32. Amendment of Rule 166 of Chapter VI of the Principal Rules:-

For the words “Assam, Tribal Areas” occurring under rule 166 shall be deleted and shall be substituted with the words “Meghalaya, District Council Affairs”.

33. Amendment of Rule 169 of Chapter VI of the Principal Rules:-

For the figure “Rs. 2” occurring under sub rule (2) shall be deleted and substituted with the figure of “Rs. 20.”

34. Amendment of Rule 176 of Chapter VII of the Principal Rules: -

For the figure and words of “Rs. 2,00,000/- (Rupees Two lakhs)” occurring in Rule 176 shall be deleted and substituted by the figure and words of “Rs. 2, 50,000/- (Rupees Two lakhs fifty thousand).”

N.B. The words “Assam” or “Assam Tribal Areas” shall be substituted by the words “Meghalaya” or “Meghalaya District Council Affairs” respectively.

STATEMENT OF OBJECTS AND REASONS

Whereas it has become expedient to further amend the Khasi Hills Autonomous District (Constitution of District Councils) Rules, 1951, to keep up with the present changes.

Hence these Amendment Rules.

Certified that the above Amendment Rules was passed by the Khasi Hills Autonomous District Council on the 15th December, 2008.

(M. PYRBOT)

Chairman,
Khasi Hills Autonomous District Council,
Shillong.

No. _____

I assent to the Bill.

Dated Shillong,
The 25th December, 2008

(RANJIT SHEKHAR MOOSHAHARY)
GOVERNOR OF MEGHALAYA

APPENDIX - XVIII

[See Rule - 147 (8), 149 A & 150 (2)]

REGISTER OF VOTERS

Election to the District Council

_____ from _____

Constituency No. and Name of Polling Station _____

_____ Part No. of Electoral Roll _____

Sl. No.	Sl. No. of the Elector in the Electoral Roll	Signature/ Thumb impression of Elector	Remarks
1.			
2.			
3.			
4. etc.			

Signature of the Presiding Officer



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8th Pausa,

1930 (S. E.)

PART IV

GOVERNMENT OF MEGHALAYA
DISTRICT COUNCIL AFFAIRS DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

The 29th November, 2008.

No.GDC-L/8/87/Pt.II/250—In pursuance of Rule 73 (2) of the Assam and Meghalaya Autonomous District Councils (Constitution of District Councils) Rules, 1951 as adopted and amended by the District Council, the Bill hereunder mentioned together with the statement of objects and reasons intended to be introduced in the session of the Garo Hills Autonomous District Council is hereby published as prescribed under the Rules.

THE CONSTITUTION OF THE GARO HILLS AUTONOMOUS DISTRICT COUNCIL (AMENDMENT) RULES, 2008.

(Passed by the Garo Hills Autonomous District Council on the 28th November, 2008)

(Received the approval of the Governor on 25th December, 2008)

(Published in the Meghalaya Gazetted Extraordinary on 29th December, 2008)

to further amend the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951.

Preamble - Whereas the State Government has decided to conduct the General Election to the District Councils by using the Electronic Voting Machines it is expedient to amend the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951 as adopted and amended from time to time and hereby referred to as the Principal Rules.

It is hereby enacted in the fifty-ninth year of the Republic of India as follows :-

1. **Short Title, extent and commencement:** -

(i) These rules shall be called "The Constitution of the Garo Hills Autonomous District Council (Amendment) Rules, 2008.

(ii) They shall apply to the whole of Garo Hills Autonomous District, (iii) They shall come into force at once.

2. **Amendment to Rule 129 of the Principal Rules** :- In Sub-rule (3) of Rule 129 the words "Two weeks" occurring in between the words "within a period not exceeding" and "from the date of submission of the petition" shall be substituted by the words "Three weeks".

3. **Amendment to the Rule 133 of the Principal Rules:** - In sub-rule (2) (a) of Rule 133, the words "Three weeks" occurring in between the words "not later than" and "after the date of the notification" shall be substituted by the words "One week".

4. **Amendment to Rule 134 of the Principal Rules:** - In sub-rule (1) of Rule 134, the figure and words "Rs.150 (Rupees One hundred Fifty)" occurring in between the words "that a deposit of and "has been made" shall be substituted respectively by the figure and words "Rs.2500 (Rupees Two Thousand Five Hundred)".

5. **Amendment to the Rules under Chapter - V: Voting at Elections:** - In the Principal Rules, the following shall be substituted for the Rules 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160 :-

- | | | |
|--|--|---|
| System of voting
– symbol system | 138(1) | Voting at elections to a District Council shall be conducted by Symbol system. The symbols to be utilised for the purpose shall be those as specified in Appendix VII to those rules. |
| | (2) | Notwithstanding anything contained in this rule, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such Constituency or Constituencies as the Governor may, having regard to the circumstances of each case, specify. |
| <p>Explanation: - [For the purpose of this section, “Voting Machine” means an apparatus whether Operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this rule shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any Election.]</p> | | |
| Right to vote | 139(1) | No person who is not, and except as expressly provided by these rules, every person who is, for the time being included in the electoral roll of any constituency shall be entitled to vote in that constituency. |
| | (2) | No person shall vote at an election in any constituency if he is for the time being not entitled to vote under the provisions of rule 128 read with rules 210, 211, 212, 213 and 214. |
| | (3) | No person shall be entitled to be registered in the electoral roll for more than one constituency. |
| | (4) | No person shall be entitled to be registered in the electoral roll for any constituency more than once. |
| | (5) | No person shall vote at any election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police. |
| Hours of commencement and close of poll | 140 (1) | The Governor shall, by notification in the Gazette fix the hour at which the poll shall commence and the hour at which it shall close on the date or dates fixed for the poll. |
| | <p>The hours fixed for polling shall also be published in the constituency in such manner as the Returning Officer may consider necessary.</p> | |
| | (2) | The Returning Officer may, for sufficient cause and with the previous consent of the Governor, postpone the date or extend the period fixed for polling. |

- | | | |
|---|---------|---|
| Recommendation of polling Station | 141 (1) | <p>The Returning Officer shall recommend for each constituency such numbers of polling stations as he may deem necessary and shall allot a distinctive number to each of them after approval by the Governor.</p> |
| | (2) | <p>Not less than seven days before the date or the first date of the dates fixed for the nomination the Returning Officer shall post at his office and published in such manner as he may consider necessary a list showing the polling stations including polling areas as approved by the Governor for which each such station has been approved and the hours during which each such station shall remain open for the recording of votes.</p> |
| | (3) | <p>No person shall be permitted to record his vote except at the polling station of the area to which according to the electoral roll he belongs and within the fixed hours for which the polling station remain open.</p> |
| Appointment of presiding Officers and polling | 142 (1) | <p>The Returning Officer shall appoint a presiding Officer for each polling station and such other persons (hereinafter referred to as polling officers) to assist the presiding officer as he thinks necessary:</p> <p>Provided that if a polling officer is absent from the polling station the presiding officer may appoint any person who is present at the polling station to be the polling officer during the absence of the former officer and inform the Returning Officer accordingly.</p> |
| | (2) | <p>A Polling officer may, if so directed by the presiding officer, perform all or any of the duties assigned to a presiding officer under these rules.</p> |
| | (3) | <p>If the presiding Officer, owing to illness or other unavoidable cause is obliged to absent himself from the polling station, his duties shall be performed by such polling officer as has been previously authorized by the Returning Officer to perform such duties during any such absence.</p> |
| Admission to polling stations | 143 (1) | <p>The presiding officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude there from all persons other than,</p> |
| | (a) | <p>Polling Officers;</p> |

- (b) Public servants on duty in connection with the election;
- (c) Person authorized by the Governor;
- (d) Candidates, their election agents and one polling agent of each candidates;
- (e) A child in arms accompanying an elector;
- (f) A person accompanying a blind or inform elector who cannot move without help; and
- (g) Such other persons as the presiding officer may from time to time admit for the purpose of identifying electors

- (2) At least seven days before the date fixed for the poll every candidate shall forward to the Returning Officer of the constituency the names of one agent and two relief agents together with two recent passport size photographs duly attested by the candidate appointed in writing by the candidate to act as his polling agents at each polling station or polling booth;

Provided that, in case of the revocation of appointment or, or the death of a polling agent, the Returning Officer may allow the appointment of another agent in this place at any time before the poll is taken.

- (3) The presiding Officer shall close the polling station at the hour fixed in that behalf under rule 140(1) so as to prevent the admission thereto of any other voter after that hour, provided that all voters admitted within the polling station before it is so close shall be entitled to have their voters recorded.

Adjournment of
poll in
emergencies

- 143.A(1) If at an election the proceedings at any polling station provided under rule 141 are interrupted or obstructed by any riot or open violence or if at an election it is not possible to take the poll at any polling station on account of any natural calamity or any other sufficient cause, the presiding officer for such polling station shall announce an adjournment of the poll to a date to be notified later, and
where the poll is so adjourned by a presiding officer, he shall forthwith inform the Returning Officer concerned.

- (2) Whenever a poll is adjourned under sub-rule (1), the Returning Office shall immediately report the circumstances to the Governor and shall, as soon as may be, with the previous approval of the Governor, appoint a day on which the poll shall recommence and fix the polling station at which and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.
- (3) In every such case as aforesaid, the Returning Officer shall notify in such manner as he may consider necessary the date, place and hours of polling fixed under sub-rule (2).

Fresh poll in the
case of
destruction , etc.
of EVMs

- 143.B(1) If at any election any ballot unit or control unit of the EVM or EVMs is or are unlawfully taken out of the custody of the Returning Officer or of any presiding officer, or is or are in any way tampered with or is or are either accidentally or intentionally destroyed or lost, the election to which such EVM or EVMs relate shall be void, but only in respect of the polling at the polling station or stations provided under rule 141 at which such ballot EVM or EVMs was or were used and no further.
- (2) If any voting machine develops a mechanical failure during the course of the recording of vote: or
 - (3) If any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll.
 - (4) Whenever the polling station or stations shall become void under sub-rule (1), (2) and (3) the Returning Officer shall as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the Governor and shall, with the previous approval of the Governor, appoint a day for the taking of a fresh poll in such or every such polling station and fix the hours during which the poll will be taken, and shall not count the votes cast at such election until such fresh poll shall have been completed.

- (5) In every such cause as aforesaid the Returning Officer shall take a fresh poll in such or every such polling station on the day so appointed by him and shall notify the day so appointed and the hours of polling so fixed by him in such manner as he may consider necessary, and the provision of these rules or orders, if any, made there under shall apply to every such fresh poll as they apply to the original poll.”

Arrangement for
secrecy of voting

144

Each polling station shall be furnished with a compartment in which voters can record their votes screened from observation.

Design of
Electronic
Voting Machines

145 (1)

Subject to Rule 141, each polling station shall be provided with necessary Electronic Voting Machines (EVMs) by the Returning Officer.

- (2) Every Electronic Voting Machines shall have a control unit and a balloting unit and shall be of the designs as approved by the Election Commission of India.

Preparation of
EVMs and
symbols by the
Returning
Officer before
handing over to
the Presiding
Officer for
conduct of poll.

146 (1)

Preparation of voting machine by the Returning Officer:-

- (a) The balloting unit of the Electronic Voting Machine shall contain those particulars which have been specified by the Election Commission and in English language.
- (b) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.
- (c) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

(2) Subject to the foregoing provisions of this rule, the returning officer shall

- a) Fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
- b) Set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same."

Arrangements at
the Polling
Stations

147 (1) Arrangements at the polling stations:- (1) Outside each polling station there shall be displayed prominently.

a) A notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled;

And

b) A copy of the list of contesting candidates.

(2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.

(3) The returning Officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.

(4) Without prejudice to the provisions of sub-rule (3), the Returning Officer may, with the previous approval of the Governor, provide one common voting machine for two or more polling stations located in the same premises."

Preparation of
voting machine
for poll by
Presiding
Officers

148 (1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with-

a) The serial number, if any, and the name of the constituency;

b) The serial number and name of the polling station or stations as the case may be;

c) The serial number of the unit; and

d) The date of poll.

- (2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (4).
- (3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as the desirous of affixing the same.
- (4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.
- (5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result button" without breaking the seal.
- (6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment."

Sealing of voting
machine after
poll

148.A(1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit.

- (2) The control unit and the balloting unit shall thereafter be sealed, and secure separately in such manner as prescribed by the Election Commission, and the seal used for securing them shall be so affixed that it will not be possible to open the unit without breaking the seals.
- (3) The polling agent present at the Polling Stations, who desire to affix their seals, shall be permitted to do so.

Maintenance of
secrecy of voting

149 (1) Before the polling station is open for the recording of vote, the presiding officer shall read to such person as may be present the provisions of rule 200 and shall explain the substance thereof in the language or languages as may be understood by such persons.

- (2) Every elector who has been permitted to vote shall maintain secrecy of voting within the polling station and

for that purpose observe the voting procedure hereinafter laid down.

- (3) Immediately on being permitted to vote the elector shall proceed to the presiding officer of the polling officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.
- (4) The elector shall thereafter forthwith –
 - a) Proceed to the voting compartment;
 - b) Record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and
 - c) Come out of the voting compartment and leave the polling station.
- (5) Every elector shall vote without undue delay.
- (6) No elector shall be allowed to enter the voting compartment when another elector is inside it.
- (7) If an elector who has been permitted to vote under rule 153 or 156 refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (4) of the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.
- (8) Where an elector is not allowed to vote under sub-rule (7), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Appendix-XVIII by the presiding officer under his signature."

Marked copy of
electoral roll

150

Immediately before the commencement of the poll, the presiding officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any entry other than those to whom the Returning Officer has issued an EDC/Postal Ballot Paper.

Procedure before
recording votes

151 (1)

The presiding officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll in a free and fair manner.

- (2) As each elector enters the polling station, the presiding officer or the polling officer authorized by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.
- (3) In deciding the right of a person to cast his vote, the presiding officer or the polling officer, as the case may be, shall over-look the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the electoral to whom such entry relates.

Person to be present at the Polling Station to assist the Polling Officers in identifying voters.

152 At every polling station arrangements shall be made for a suitable village or town officer such a patwari (mandal), gaonbura, syiem, sardar, dolo, chief, sarpanch, village headman, etc., to be present when the voters of such village appear to record their votes. Such Officers shall sit in close proximity to the polling officer in charge of the electoral roll and shall assist him in identifying the voters calling his attention to any case of impersonation or misrepresentation when the matter shall at once be referred to the presiding officer.

153 Before permitting an elector to vote, the polling Officer shall –

- (a) Record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a Register of Voters in Appendix –XVIII.
- (b) Obtain the signature or the thumb impression of the elector of the said register of votes; and
- (c) Mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote.

Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

- (2) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

Recording of votes of blind or

154(1) If the presiding officer is satisfied that owing the blindness or other physical infirmities an elector is

inform electors

unable to recognize the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

- (2) The presiding officer shall keep a record in Appendix XVIII of all cases under this rule."

Form of ballot paper

155

The ballot paper shall be in the form as in Appendix VIII and shall contain the names and symbol of all the contesting candidates in English. The ballot papers shall be serially numbered.

Tendered votes

156 (1)

If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relation to his identity as the presiding officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in English.

- (2) Every such elector shall before being supplied with tendered ballot paper write his name against the entry relating to him in Appendix -IX.

- (3) On receiving the ballot paper he shall forthwith –

i) Proceed to the voting compartment;

ii) Record there his vote on the ballot paper by placing a cross mark 'X' with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;

a) Fold the ballot paper so as to conceal his vote;

- b) Show to the presiding officer, if required, the distinguishing mark on the ballot paper;
- c) Give it to the presiding officer who shall place it in a cover specially kept for the purpose; and
- d) Leave the Polling Station.

- (4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance; the presiding officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 154 for recording the vote in accordance with his wishes.'

Challenged
Votes

- 157 (1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the presiding officer for each such challenge.
- (2) On such deposit being made, the presiding officer shall –
 - a) Warn the person challenged of the penalty for personation;
 - b) Read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;
 - c) Enter his name and address in the list of challenged votes in Appendix-X; and
 - d) Require him to affix his signature in the said list.
- (3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose –
 - a) Require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence of proof of his identity.
 - b) Put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and
 - c) Administer an oath to the person challenged and any other person offering to give evidence.
- (4) If, after the inquiry, the presiding officer considers that

the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

- (5) If the presiding officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule(1) be forfeited to Government and in any other case, returned to the challenger at the conclusion of the inquiry."

Provisions for 158 (1)
voting by post

A person who is an elector of any District Council Constituency, and is, by reason of his being employed on duty in connection with election at the polling station which he is not ordinarily entitled to vote, may cast his vote by post.

In that case, he shall submit an application in the form as prescribed in Appendix XV to the Returning Officer at least seven days before the date fixed for the poll in that Constituency in which he is a voter and if the Returning Officer is satisfied that the claim is just and that the applicant is entitled to vote in that Constituency he shall issue a ballot paper to him.

- (2) While allowing such on application the Returning Officer shall at the same time cause suitable note to be recorded in each copy of the electoral roll in which the applicant is registered and which is intended to be used at the polling station where the applicant has been permitted to give his vote at the election by postal ballot paper.
- (3) The Returning Officer shall by registered post send to each such elector a ballot paper in the form in Appendix XV-A and shall enter on the counterfoil of each such ballot paper the name of the elector to whom the ballot paper is sent and his serial number in the electoral roll. The particulars in the ballot paper shall be printed in English or may be typed if the number of electors entitle to vote by postal ballot paper at election, is small and the names of the candidates shall be printed or typed as the case may be on the ballot paper in the same order in which the names of such candidates appear in the list of valid nominations at the elections, published under sub-rule (1) of rule 137.
- (4) Along with the ballot paper, the Returning Officer shall also send:
- a) A declaration form in Appendix XV-B;

- b) A cover addressed to himself in the form in Appendix XVI;
- c) An envelope with the number of the ballot paper entered on its face; and
- d) A letter in the form in Appendix XVII.

The Returning Officer shall have the number of the ballot paper entered at the left hand bottom corner of the cover in the form in Appendix XVI.

- (5) The ballot paper together with the cover, declaration form, an envelope and a letter shall be sent to each such elector at the address given in the application made by him under Rule 158(1).
- (6) After all the ballot papers have been issued under this rule, the Returning Officer shall seal up in a packet the counterfoils of all such ballot papers and record on such packet the description of its contents and the name of the constituency and the date of the election to which it refers.
- (7) No election shall be invalidated by reason that an elector has not received his ballot paper provided that a ballot paper has been issued to him in accordance with these rules.

Method of voting by posts 159 (1)

Every elector on receiving his ballot paper sent under rule 158, if he desires to vote at the election, shall record his vote thereon and sign the declaration form in accordance with the instructions in the letter sent with the ballot paper.

- (2) The elector shall then place the ballot paper in the envelope and enclose it in the cover and send the cover to the Returning Officer in accordance with the instruction contained in the letter so as to reach him before 5 p.m. on the date fixed in this behalf by the Returning Officer. Any cover which is not received by the Returning officer before 5 p.m. on the date so fixed shall be rejected. All such rejected covers shall be kept in a separate sealed packet by the Returning Officer. The Returning officer shall keep all other covers containing postal ballot paper so received in safe custody until the commencement of the counting of votes.

- (3) An elector shall obtain the attestation of his signature on the declaration form by a Magistrate to whom the elector is personally known or to whose satisfaction the elector has been identified.
- (4) When a ballot paper and other connected papers sent by post under rule 158 are for any reason returned, undelivered, the papers so returned to the Returning Officer together with the counterfoil of ballot paper in question shall be marked as cancelled by the Returning Officer. The paper so cancelled except the counterfoil of the ballot paper shall be kept in a separate envelope set apart for the purpose.

Closing of poll 160 (1) The presiding officer shall close a polling station at the hour fixed in that behalf under rule 140 and shall not thereafter admit any elector into the polling station.

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

- (2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.”

6. Amendment to the Rules under Chapter – VI: Counting of Votes:- In the Principal Rules, the following shall be substituted for the Rules 161, 162, 163, 164, 165, 166, 167, 168 and 169 :-

Proper mixing of 161 (1) The Returning Officer shall ensure proper mix of polling
Polling
Personnel drawn
from different
offices

- (2) Presiding Officers and Polling Officers are to be classified on the basis of scale of pay rank. As far as practicable, Gazette Officers and officers in supervisory capacity only may be deployed as Presiding Officers. No person will be assigned polling duties in a District Council Constituency in which he is posted or in which he resides or the Constituency, which is his home Constituency.

Accounts of 162 (1) The presiding officer shall at the close of the poll prepare
votes recorded

- (2) The Presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form Appendix-XI after obtaining a receipt from the said

polling agent therefore and shall attest it as a true copy."

Notification of
time, place and
date of counting
of votes

- 163 (1) At an election in a Constituency where a poll is taken, the Returning Office shall appoint a date (which shall be as soon as practicable after the completion of the poll throughout the Constituency) for the counting of votes, and shall fix the place and time at which the votes shall be counted on the date so appointed.
- (2) The Returning Officer shall give notice of such date, time and place in writing to all candidates and their election agents.
- (3) If at the time so appointed for the counting of votes, all the ballot boxes or Electronic Voting Machines used at the poll have not been received by the Returning Officer or if from any other unavoidable cause he is unable to proceed with the counting of votes as the time and date appointed under sub-rule (1), the Returning Officer may postpone the counting to another date and time and may fix if necessary, another places for the counting of votes on the date to which the counting has been postponed, and shall give notice thereof in writing to the candidates and their election agents.

Person who may
be present at the
counting of votes

- 164 No person shall be allowed to be present at the counting of votes except the Returning Officer and such person as he may appoint to assist him in counting the votes. The candidates and either their election agent or one representative of each candidate authorized in writing by the candidates shall have a right to be present at the time of counting.

Provided that the Returning Officer if he consider necessary may allow more than one representative of each candidate to be present at the time of counting subject to maximum of ten such representative in case of each candidate.

Counting of
votes

- 165 (1) On the day and the time appointed under Rule 161, the Returning Officer shall, before he commences to count votes, read out the provisions of rule 198 to such person as may be present and shall then proceed as follow:-

Scrutiny and
inspection of
voting machines

- (2) The returning Office may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.
- (3) Before the votes recorded in any control unit of voting machine are counted under sub-rule (3), the candidate or his election agent or his counting agent present at the

counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

- (4) The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.
- (5) If the returning officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in rule 143-A or 143-B, as may be applicable in respect of the polling stations where that machine was used."

Declaration of
candidate elected

- 166 (1) When the counting of votes has been completed the Returning Officer shall forthwith declare the candidate or candidates to whom the largest number of valid votes has been given to be elected:

Provided that upon the application of any candidate or his election agent or his duly authorized representative a recount shall be made before the Returning Officer makes the declaration, but the Returning Officer may reject any such application as may appear to him to be frivolous, recording at the same time, the grounds for such rejection.

- (2) If after the counting of votes is completed, an equality of votes is found to exist between any candidates, and the addition of one votes will entitled any of the candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Verification of
statement
submitted by the
Presiding Officer

- 167 The Returning Officer shall not open the sealed packets of the tender votes, the marked copy of the electoral roll or the counterfoil of the ballot papers. He shall verify the statements submitted by the Presiding Officers under rule 161 by comparing them with the statement prepared with the number of counted votes and rejected ballot papers, and the tendered votes list, shall then reclose and reseal each packet which has been opened by him, and shall then reclose and reseal each packet which has been opened by him, and shall record on each packet a description of its contents and the date of the election to which it refers.

Report of result
of election to

- 168 The Returning Officer shall without delay report the result of every election in a constituency of which he is

Government and
publication of
result in the
Gazette

the Returning Officer to the Secretary to the Government of Meghalaya, District Council Affairs Department and to such other officers as the Governor may direct and the name or names of the candidate or candidates elected shall be published in the Gazette under the signature of the Returning Officer.

Return by the
Returning
Officer

169(1) The Returning Officer shall then prepare and certify a return setting forth –

- 1) the result of the verification referred to in rule 167;
- 2) the name of the candidates for whom valid votes have been given;
- 3) the number of valid votes given for each candidate;
- 4) the names of the candidates declared elected;
- 5) the number of tendered votes given.

And shall permit any candidate or his election agent or his authorized representative to take a copy of, or an extract from such return.

Return to be sent
to Government

- (2) The Returning Officer shall, after reporting the result of the election under rule 166, forward the return mentioned in the preceding rule to the Secretary to the Government of Meghalaya, District Council Affairs Department.
- (3) Copies of returns by the Returning Officer shall be furnished by the Secretary to the Government of Meghalaya, District Council Affairs Department on payment of a fee of Rs.20/- per copy.

Power of
Governor to
prescribe any
other procedure
to be followed as
to voting at
elections and the
counting of votes

169.A Miscellaneous provisions relating voting at elections and counting of votes

Notwithstanding anything in the rules under Chapters V and VI or any other rule relating to the procedures to be followed for voting at elections and for the counting of votes, the Governor may, by order, prescribe any other procedure to be followed for the said purpose or may, by notification in the Gazette, apply, with or without such exceptions or modifications as may be specified in the notification, all or any of the provisions of the Representation of the People ACT, 1951(43 of 1951) or of the Rules made thereunder including any direction/instructions made or issued by the Election Commission of India relating to the procedures for voting at elections and for the counting of votes.

7. Amendment to the Rule 176 of the Principal Rule :- The figure Rs. 4,000/- occurring in the last line after the words "shall be" shall be deleted and substituted by the figure and the words "Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand) only".

Statement of Objects and Reasons

Since a decision has been taken to conduct the General Election to the Autonomous District Councils in the State by using Electronic Voting Machines instead of Ballot boxes and ballot papers, amendment of the existing rules has become urgent and imperative.

Hence this Amendment Rules.

Certified that the above Amendment Rules were passed by the Garo Hills Autonomous District Council on the 28th November, 2008.

Chairman,
Garo Hills Autonomous District Council,
Tura

Financial Memorandum

The system of conducting the election by using Electronic Voting Machine will involve some expenditure out of the District Fund of the District Council in implementing the proposed enactment.

Chairman,
Garo Hills Autonomous District Council,
Tura.

No. _____

I approve to these Rules.

Dated Shillong,
The 25th December, 2008

(RANJIT SHEKHAR MOOSHAHARY)
GOVERNOR OF MEGHALAYA

APPENDIX- XVIII

[See Rule – 149(8), 153 & 154(2)]

REGISTER OF VOTERS

Election to the District Council

.....from

.....Constituency No. and Name of Polling

Station..... Part No. of Electoral

Roll.....

Sl. No.	Sl. No. of the elector in the electoral roll	Signature/Thumb impression of elector	Remarks
1.			
2.			
3.			
4.			
etc.			

Signature of the Presiding Officer



Postal Registration No. N. E.—771/2006-2008

The Gazette of Meghalaya

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 150

Shillong, Monday, December 29, 2008,

8th Pausa,

1930 (S. E.)

PART IV

GOVERNMENT OF MEGHALAYA
DISTRICT COUNCIL AFFAIRS DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

The 29th December, 2008

No.DCA.72/2008/19:-In pursuance of paragraph 11 of Sixth Schedule to the Constitution of India, the following Bill of the District Council, Jaintia Hills Autonomous District is hereby published for general information:-

**THE CONSTITUTION OF THE JAINTIA HILLS AUTONOMOUS DISTRICT COUNCIL
(AMENDMENT) RULES 2008.**

(Passed by the Jaintia Hills Autonomous District Council on 8th December, 2008).

(Received the assent of the Governor on 25th December, 2008).

(Published in the Gazette of Meghalaya Extraordinary on 29th December, 2008).

to amend

The Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951.

Preamble - whereas the State Government has decided to conduct the General Election to the District Councils by using the Electronic Voting Machines it is expedient to amend the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951 as adopted and amended from time to time and hereby referred to as the Principal Rules.

It is hereby enacted in the fifty-ninth year of the Republic of India as follows: -

1. Short Title, extent and commencement: -

- (i) These rules shall be called " The Constitution of the Jaintia Hills Autonomous District Council (Amendment) Rules, 2008.
- (ii) They shall apply to the whole of Jaintia Hills District.
- (iii) They shall come into force at once.

2. Amendment to Rule 129 of the Principal Rules:- In Sub-rule (3) of Rule 129 the words "two Weeks" occurring in between the words "within a period not exceeding" and "from the date of submission of the petition" shall be substituted by the words 'Three weeks'.

3. Amendment to the Rule 133 of the Principal Rules:- In sub rule (2) (a) of Rule 133, the words "Three weeks" occurring in between the words "not later than" and "after the date of the notification" shall be substituted by the words "one week".

4. Amendment to Rule 134 of the Principal Rules:- In Sub-rule (1) of Rule 134, the figure and words "Rs. 150 (Rupees One Hundred Fifty)" occurring in between the words "that a deposit of" and "has been made" shall be substituted respectively by the figure and words "Rs. 2500 (Rupees Two Thousand Five Hundred)".

Amendment to the Rules under Chapter – V: Voting at Elections:- In the Principal Rules, the following shall be substituted for the Rules 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160:-

- | | | |
|---|--------|--|
| System of voting
– symbol system | 138(1) | Voting at elections to a District Council shall be conducted by Symbol system. The symbols to be utilized for the purpose shall be those as specified in Appendix VII to those rules. |
| | (2) | Notwithstanding anything contained in this rule, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such Constituency or Constituencies as the Governor may, having regard to the circumstances of each case, specify. |
| | | Explanation: - [For the purpose of this section, “ Voting Machine” means an apparatus whether Operated electronically or otherwise used for giving or recording of votes and any reference to A ballot box or ballot paper in this rule shall, save as otherwise provided, be construed as Including a reference to such voting machine wherever such voting machine is used at any Election.] |
| Right to vote | 139(1) | No person who is not, and except as expressly provided by these rules, every person who is, for the time being included in the electoral roll of any constituency shall be entitled to vote in that constituency. |
| | (2) | No person shall vote at an election in any constituency if he is for the time being not entitled to vote under the provisions of rule 128 read with rules 210, 211, 212, 213 and 214. |
| | (3) | No person shall be entitled to be registered in the electoral roll for more than one constituency. |
| | (4) | No person shall be entitled to be registered in the electoral roll for any constituency more than once. |
| | (5) | No person shall vote at any election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police. |
| Hours of
commencement
and close of poll | 140(1) | The Governor shall, by notification in the Gazette fix the hour at which the poll shall commence and the hour at which it shall close on the date or dates fixed for the poll. |
| | | The hours fixed for polling shall also be published in the constituency in such manner as the Returning Officer may consider necessary. |
| | (2) | The Returning Officer may, for sufficient cause and with the previous consent of the Governor, postpone the date or extend the period fixed for polling. |

- | | | |
|---|--------|--|
| Commendation
of Polling Station | 141(1) | The Returning Officer shall recommend for each constituency such numbers of Polling Stations as he may deem necessary and shall allot a distinctive number to each of them after approval by the Governor. |
| | (2) | Not less than seven days before the date or the first date of the dates fixed for the nomination, the Returning Officer shall post at his office and published in such manner as he may consider necessary a list showing the Polling Stations including polling areas as approved by the Governor for which each such station has been approved and the hours during which each such station shall remain open for the recording of votes. |
| | (3) | No person shall be permitted to record his vote except at the Polling Station of the area to which according to the electoral roll he belongs and within the fixed hours for which the Polling Station remain open. |
| Appointment of
Presiding Officers
and Polling
Officers | 142(1) | The Returning Officer shall appoint a Presiding Officer for each Polling Station and such other persons (hereinafter referred to as Polling Officers) to assist the Presiding Officer as he thinks necessary:

Provided that if a Polling Officer is absent from the Polling Station, the Presiding Officer may appoint any person who is present at the Polling Station to be the Polling Officer during the absence of the former officer and inform the Returning Officer accordingly. |
| | (2) | A Polling Officer may, if so directed by the Presiding Officer, perform all or any of the duties assigned to a Presiding Officer under these rules. |
| | (3) | If the Presiding Officer, owing to illness or other unavoidable cause is obliged to absent himself from the Polling Station, his duties shall be performed by such Polling Officer as has been previously authorized by the Returning Officer to perform such duties during any such absence. |
| Admission to
Polling Stations | 143(1) | The Presiding Officer shall regulate the number of electors, to be admitted at any one time inside the Polling Station and shall exclude there from all persons other than:

(a) Polling Officers;
(b) Public servants on duty in connection with the election;
(c) Person authorized by the Governor;
(d) Candidates, their election agents and one polling agent of each candidates;
(e) A child in arms accompanying an elector;
(f) A person accompanying a blind or infirm elector who cannot move without help; and
(g) Such other persons as the Presiding Officer may from time to time admit for the purpose of identifying electors. |

- (2) At least seven days before the date fixed for the poll every candidate shall forward to the Returning Officer of the constituency the names of one agent and two relief agents together with two recent passport size photographs duly attested by the candidate appointed in writing by the candidate to act as his polling agents at each Polling Station or polling booth;

Provided that, in case of the revocation of appointment, or the death of a polling agent, the Returning Officer may allow the appointment of another agent in this place at any time before the poll is taken.

- (3) The Presiding Officer shall close the Polling Station at the hour fixed in that behalf under rule 140(1) so as to prevent the admission thereto of any other voter after that hour, provided that all voters admitted within the Polling Station before it is so close shall be entitled to have their votes recorded.

Adjournment of
poll in
emergencies

- 143.A(1) If at an election the proceedings at any Polling Station provided under rule 141 are interrupted or obstructed by any riot or open violence or if at an election it is not possible to take the poll at any Polling Station on account of any natural calamity or any other sufficient cause, the Presiding Officer for such Polling Station shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a Presiding Officer, he shall forthwith inform the Returning Officer concerned.

- (2) Whenever a poll is adjourned under sub – rule (1) the Returning Officer shall immediately report the circumstances to the Governor and shall, as soon as may be, with the previous approval of the Governor, appoint a day on which the poll shall recommence and fix the Polling Station at which and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

- (3) In every such case as aforesaid, the Returning Officer shall notify in such manner as he may consider necessary the date, place and hours of polling fixed under sub-rule (2).

Fresh poll in the
case of
destruction, etc. of
EVMs

- 143.B(1) If at any election any ballot unit or control unit of the EVM or EVMs is or are unlawfully taken out of the custody of the Returning Officer or of any Presiding Officer, or is or are in any way tampered with or is or are either accidentally or intentionally destroyed or lost, the election to which such EVM or EVMs relate shall be void, but only in respect of the polling at the Polling Station or stations provided under rule 141 at which such ballot EVM or EVMs was or were used and no further.

- (2) If any voting machine develops a mechanical failure during the course of the recording of vote: or

- (3) If any such error or irregularity in procedure as is likely to vitiate the poll is committed at a Polling Station or at a place fixed for the poll.
- (4) Whether the Polling Station or stations shall become void under sub-rule (1), (2) and (3) the Returning Officer shall as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the Governor and shall, with the previous approval of the Governor, appoint a day for the taking of a fresh poll in such or every such Polling Station and fix the hours during which the poll will be taken, and shall not count the votes cast at such election until such fresh poll shall have been completed.
- (5) In every such cause as aforesaid the Returning Officer shall take a fresh poll in such or every such Polling Station on the day so appointed by him and shall notify the day so appointed and the hours of polling so fixed by him in such manner as he may consider necessary, and the provision of these rules or orders, if any, made there under shall apply to every such fresh poll as they apply to the original poll."

Arrangement for secrecy of voting	144	Each Polling Station shall be furnished with a compartment in which voters can record their votes screened from observation.
Design of Electronic Voting Machines	145(1)	Subject to Rule 141, each Polling Station shall be provided with necessary Electronic Voting Machines (EVMs) by the Returning Officer.
	(2)	Every Electronic Voting Machines shall have a control unit and a balloting unit and shall be of the designs as approved by the Election Commission of India.
Preparation of EVMs and symbols by the Returning Officer before handing over to the Presiding Officer for conduct of poll	146(1)	<p>Preparation of voting machine by the Returning Officer: -</p> <p>(a) The balloting unit of the Electronic Voting Machine shall contain those particulars which have been specified by the Election Commission and in English language.</p> <p>(b) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.</p> <p>(c) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.</p>
	(2)	<p>Subject to the foregoing provisions of this rule, the Returning Officer shall</p> <p>(a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;</p>

- (b) set the number of contesting candidates and close the **candidate set** section in the control unit and secure it with his seal and the **seals of** such of the contesting candidates or their election agents present as **are** desirous of affixing the same;

Arrangements at
the Polling
Stations

147(1)

Outside each Polling Station there shall be displayed prominently.

a). A notice specifying the polling area, the electors of which are entitled to vote at the Polling Station and, when the polling area has more than one Polling Station, the particulars of the electors so entitled;

and

b) a copy of the list of contesting candidates.

- (2) At each Polling Station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.
- (3) The Returning Officer shall provide at each Polling Station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.
- (4) Without prejudice to the provisions of sub-rule (3), the Returning Officer may, with the previous approval of the Governor, provide one common voting machine for two or more Polling Stations located in the same premises.”

Preparation of
voting machine
for poll by
Presiding
Officers.

148(1)

The control unit and balloting unit of every voting machine used at Polling Station shall bear a label marked with –

- a) the serial number, if any, and the name of the constituency;
- b) the serial number and name of the Polling Station or stations as the case may be;
- c) the serial number of the unit; and
- d) the date of poll.

- (2) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (4).
- (3) A paper seal shall be used for securing the control unit of the voting machine, and the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such polling agents present as the desirous of affixing the same.

- (4) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.
- (5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result button" without breaking the seal.
- (6) The Control unit shall be closed and secured and placed in full view of the Presiding Officer and the polling agents and the balloting unit placed in the voting compartment."

Sealing of voting machine after poll.

- 148.A(1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit.
- (2) The control unit and the balloting unit shall thereafter be sealed, and secure separately in such manner as prescribed by the Election Commission, and the seal used for securing them shall be so affixed that it will not be possible to open the unit without breaking the seals.
- (3) The polling agents present at the Polling Stations, who desire to affix their seals, shall be permitted to do so.

Maintenance of secrecy of voting

- 149(1) Before the Polling Station is open for the recording of vote, the Presiding Officer shall read to such person as may be present the provisions of rule 200 and shall explain the substance thereof in the language or languages as may be understood by such persons.
- (2) Every elector who has been permitted to vote shall maintain secrecy of voting within the Polling Station and for that purpose observe the voting procedure hereinafter laid down.
- (3) Immediately on being permitted to vote the elector shall proceed to the Presiding Officer or Polling Officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.
- (4) The elector shall thereafter forthwith –
 - a) Proceed to the voting compartment;
 - b) Record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and
 - c) Come out of the voting compartment and leave the Polling Station.

- (5) Every elector shall vote without undue delay.
- (6) No elector shall be allowed to enter the voting compartment when another elector is inside it.
- (7) If an elector who has been permitted to vote under rule 153 or 156 refuses after warning given by the Presiding Officer to observe the procedure laid down in sub-rule (4) of the said rules, the Presiding Officer or a Polling Officer under the direction of the Presiding Officer shall not allow such elector to vote.
- (8) Where an elector is not allowed to vote under sub-rule (7), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Appendix – XVIII by the Presiding Officer under his signature."

Marked copy of 150
electoral roll.

Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any entry other than those to whom the Returning Officer has issued an EDC/Postal Ballot Paper.

Procedure before 151(1)
recording of
votes.

The Presiding Officer may employ at the Polling Station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll in a free and fair manner.

- (2) As each elector enters the Polling Station, the Presiding Officer or the Polling Officer authorized by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.
- (3) In deciding the right of a person to cast his vote, the Presiding Officer or the Polling Officer, as the case may be, shall overlook the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the electoral to whom such entry relates.

Person to be 152
present at the
Polling Station to
assist the Polling
Officers in
identifying voters.

At every Polling Station arrangements shall be made for a suitable village or town officer such as patwari (mandal), gaonbura, syiem, sardar, doloi, chief, sarpanch, village headman, etc., to be present when the voters of such village appear to record their votes. Such Officers shall sit in close proximity to the Polling Officer in charge of the electoral roll and shall assist him in identifying the voters calling his attention to any case of impersonation or misrepresentation when the matter shall at once be referred to the Presiding Officer.

- 153 Before permitting an elector to vote, the Polling Officer shall –
- (a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a Register of Voters in Appendix – XVIII.
 - (b) obtain the signature or the thumb impression of the elector of the said register of votes; and
 - (c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote.

Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

(2) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall be necessary for any Presiding Officer or Polling Officer or any other officer to attest the thumb impression of the elector on the register of voters.

Recording of
votes of blind or
infirm electors.

- 154(1) If the Presiding Officer is satisfied that owing to the blindness or other physical infirmities an elector is unable to recognize the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the Presiding Officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one elector at any Polling Station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other Polling Station on that day.

- (2) The Presiding Officer shall keep a record in Appendix – XVIII of all cases under this rule.”

Form of ballot
paper

- 155 The ballot paper shall be in the form as in Appendix – VIII and shall contain the names and symbol of all the contesting candidates in English. The ballot papers shall be serially numbered.

Tendered votes.

- 156(1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in English.

- (2) Every such elector shall before being supplied with tendered ballot paper write his name against the entry relating to him in Appendix – IX.
- (3) On receiving the ballot paper he shall forthwith –
 - i) Proceed to the voting compartment;
 - ii) Record there his vote on the ballot paper by placing a cross mark 'X' with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;
 - a) Fold the ballot paper so as to conceal his vote;
 - b) Show to the Presiding Officer, if required, the distinguishing mark on the ballot paper;
 - c) Give it to the Presiding Officer who shall place it in a cover specially kept for the purpose;

And

- d) Leave the Polling Station.

- (4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance; the Presiding Officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 154 for recording the vote in accordance with his wishes.'

Challenged Votes 157(1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the Presiding Officer for each such challenge.

- (2) On such deposit being made, the Presiding Officer shall –
 - a) Warn the person challenged of the penalty for personation;
 - b) Read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;
 - c) Enter his name and address in the list of challenged votes in Appendix – X; and
 - d) Require him to affix his signature in the said list.
- (3) The Presiding Officer shall thereafter hold a summary inquiry into the challenged and may for that purpose –
 - a) Require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence of proof of his identity.
 - b) Put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

- c) Administer an oath to the person challenged and any other person offering to give evidence.

- (4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.
- (5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government and in any other case, returned to the challenger at the conclusion of the inquiry."

Provisions for
voting by post

- 158(1) A person who is an elector of any District Council Constituency, and is, by reason of his being employed on duty in connection with election at the Polling Station which he is not ordinarily entitled to vote, may cast his vote by post. In that case, he shall submit an application in the form as prescribed in Appendix – XV to the Returning Officer at least seven days before the date fixed for the poll in that Constituency in which he is a voter and if the Returning Officer is satisfied that the claim is just and that the applicant is entitled to vote in that Constituency he shall issue a ballot paper to him.
- (2) While allowing such on application the Returning Officer shall at the same time cause suitable note to be recorded in each copy of the electoral roll in which the applicant is registered and which is intended to be used at the Polling Station where the applicant has been permitted to give his vote at the election by postal ballot paper.
- (3) The Returning Officer shall by registered post send to each such elector a ballot paper in the form in Appendix – XV-A and shall enter on the counterfoil of each such ballot paper the name of the elector to whom the ballot paper is sent and his serial number in the electoral roll. The particulars in the ballot paper shall be printed in English or may be typed if the number of electors entitled to vote by postal ballot paper at election, is small and the names of the candidates shall be printed or typed as the case may be on the ballot paper in the same order in which the names of such candidates appear in the list of valid nominations at the elections, published under sub-rule (1) of rule 137.
- (4) Along with the ballot paper, the Returning Officer shall also send:
 - a) a declaration form in Appendix – XV-B;
 - b) a cover addressed to himself in the form in Appendix – XVI;
 - c) an envelope with the number of the ballot paper entered on its face; and
 - d) a letter in the form in Appendix – XVII.

The Returning Officer shall have the number of the ballot paper entered at the left hand bottom corner of the cover in the form in Appendix – XVI.

- (5) The ballot paper together with the cover, declaration form, an envelope and a letter shall be sent to each such elector at the address given in the application made by him under Rule 158(1).
- (6) After all the ballot papers have been issued under this rule, the Returning Officer shall seal up in a packet the counterfoils of all such ballot papers and record on such packet the description of its contents and the name of the constituency and the date of the election to which it refers.
- (7) No election shall be invalidated by reason that an elector has not received his ballot paper provided that a ballot paper has been issued to him in accordance with these rules.

Method of voting by posts 159(1)

Every elector on receiving his ballot paper sent under rule 158, if he desires to vote at the election, shall record his vote thereon and sign the declaration form in accordance with the instructions in the letter sent with the ballot paper.

- (2) The elector shall then place the ballot paper in the envelope and enclose it in the cover and send the cover to the Returning Officer in accordance with the instruction contained in the letter so as to reach him before 5p.m. on the date fixed in this behalf by the Returning Officer. Any cover which is not received by the Returning Officer before 5p.m. on the date so fixed shall be rejected. All such rejected covers shall be kept in a separate sealed packet by the Returning Officer. The Returning Officer shall keep all other covers containing postal ballot paper so received in safe custody until the commencement of the counting of votes.
- (3) An elector shall obtain the attestation of his signature on the declaration form by a Magistrate to whom the elector is personally known or to whose satisfaction the elector has been identified.
- (4) When a ballot paper and other connected papers sent by post under rule 158 are for any reason returned undelivered, the papers so returned to the Returning Officer together with the counterfoil of ballot paper in question shall be marked as cancelled by the Returning Officer. The paper so cancelled except the counterfoil of the ballot paper shall be kept in a separate envelope set apart for the purpose.

Closing of poll 160(1)

The Presiding Officer shall close a Polling Station at the hour fixed in that behalf under rule 140 and shall not thereafter admit any elector into the Polling Station.

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

- (2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.”

6. Amendment to the Rules under Chapter – VI: Counting of Votes:- In the Principal Rules, the following shall be substituted for the Rules 161, 162, 163, 164, 165, 166, 167, 168 and 169 :-

- | | | |
|---|---------|---|
| Proper mixing of Polling Personnel drawn from different offices | 161 (1) | The Returning Officer shall ensure proper mix of polling personnel drawn from different offices and departments at the time of formation of a polling party. |
| | (2) | Presiding Officers and Polling Officers are to be classified on the basis of scale of pay rank. As far as practicable, Gazette Officers and officers in supervisory capacity only may be deployed as Presiding Officers. No person will be assigned polling duties in a District Council Constituency in which he is posted or in which he resides or the Constituency, which is his home Constituency. |
| Accounts of votes recorded | 162 (1) | The presiding officer shall at the close of the poll prepare an account of votes recorded in Appendix-XI and enclose it in separate cover with the words ‘ Account of Votes Recorded ‘ super scribed thereon. |
| | (2) | The Presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form Appendix-XI after obtaining a receipt from the said polling agent therefore and shall attest it as a true copy.” |
| Notification of time, place and date of counting of votes | 163 (1) | At an election in a Constituency where a poll is taken, the Returning Office shall appoint a date (which shall be as soon as practicable after the completion of the poll throughout the Constituency) for the counting of votes, and shall fix the place and time at which the votes shall be counted on the date so appointed. |
| | (2) | The Returning Officer shall give notice of such date, time and place in writing to all candidates and their election agents. |
| | (3) | If at the time so appointed for the counting of votes, all the ballot boxes or Electronic Voting Machines used at the poll have not been received by the Returning Officer or if from any other unavoidable cause be is unable to proceed with the counting of votes as the time and date appointed under sub-rule (1), the Returning Officer may postpone the counting to another date and time and may fix if necessary, another places |

for the counting of votes on the date to which the counting has been postponed, and shall give notice thereof in writing to the candidates and their election agents.

Person who may
be present at the
counting of votes

164

No person shall be allowed to be present at the counting of votes except the Returning Officer and such person as he may appoint to assist him in counting the votes. The candidates and either their election agent or one representative of each candidate authorized in writing by the candidates shall have a right to be present at the time of counting.

Provided that the Returning Officer if he consider necessary may allow more than one representative of each candidate to be present at the time of counting subject to maximum of ten such representative in case of each candidate.

Counting of
votes

165 (1)

On the day and the time appointed under Rule 161, the Returning Officer shall, before he commences to count votes, read out the provisions of rule 198 to such person as may be present and shall then proceed as follow:-

Scrutiny and
inspection of
voting machines

(2)

The returning Office may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(3)

Before the votes recorded in any control unit of voting machine are counted under sub-rule (3), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(4)

The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.

(5)

If the returning officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in rule 143-A or 143-B, as may be applicable in respect of the polling stations where that machine was used."

Declaration of
candidate elected

166 (1)

When the counting of votes has been completed the Returning Officer shall forthwith declare the candidate or candidates to whom the largest number of valid votes has been given to be elected:

Provided that upon the application of any candidate or his election agent or his duly authorized representative a recount shall be made before the Returning Officer makes the declaration, but the Returning Officer may reject any such

application as may appear to him to be frivolous, recording at the same time, the grounds for such rejection.

- (2) If after the counting of votes is completed, an equality of votes is found to exist between any candidates, and the addition of one votes will entitled any of the candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Verification of statement submitted by the Presiding Officer 167 The Returning Officer shall not open the sealed packets of the tender votes, the marked copy of the electoral roll or the counterfoil of the ballot papers. He shall verify the statements submitted by the Presiding Officers under rule 161 by comparing them with the statement prepared with the number of counted votes and rejected ballot papers, and the tendered votes list, shall then reclose and reseal each packet which has been opened by him, and shall then reclose and reseal each packet which has been opened by him, and shall record on each packet a description of its contents and the date of the election to which it refers.

Return by the Returning Officer 168 The Returning Officer shall then prepare and certify a return setting forth –

- 1) the result of the verification referred to in rule 167;
- 2) the name of the candidates for whom valid votes have been given;
- 3) the number of valid votes given for each candidate;
- 4) the names of the candidates declared elected;
- 5) the number of tendered votes given.

And shall permit any candidate or his election agent or his authorized representative to take a copy of, or an extract from such return.

Report of result of election to Government and publication of result in the Gazette 169(1) The Returning Officer shall without delay report the result of every election in a constituency of which he is the Returning Officer to the Secretary to the Government of Meghalaya, District Council Affairs Department and to such other officers as the Governor may direct and the name or names of the candidate or candidates elected shall be published in the Gazette under the signature of the Returning Officer.

Return to be sent to Government (2) The Returning Officer shall, after reporting the result of the election under rule 166, forward the return mentioned in the preceding rule to the Secretary to the Government of Meghalaya, District Council Affairs Department.

- (3) Copies of returns by the Returning Officer shall be furnished by the **Secretary** to the Government of Meghalaya, District Council Affairs Department on payment of a fee of Rs. 20/- per copy.

Power of Governor to prescribe any other procedure to be followed as to voting at elections and the counting of votes

169. A Miscellaneous provisions relating voting at elections and counting of votes.

Notwithstanding anything in the rules under Chapters – V and VI or any other rule relating to the procedures to be followed for voting at elections and for the counting of votes, the Governor may, by order, prescribe any other procedure to be followed for the said purpose or may, by notification in the Gazette, apply, with or without such exceptions or modifications as may be specified in the notification, all or any of the provisions of the Representation of the People Act, 1951 (43 of 1951) or of the Rules made thereunder including any direction/instructions made or issued by the Election Commission of India relating to the procedures for voting at elections and for the counting of votes.

7. **Amendment to the Rule 176 of the Principal Rule:-** The figure Rs. 4,000 occurring in the last line after the words “shall be” shall be deleted and substituted by the figure and the words “Rs. 2,50,000/- (Rupees Two Lakhs Fifty Thousand) only.”

Statement of Objects and Reasons

Since a decision has been taken to conduct the General Election to the Autonomous District Councils in the State by using Electronic Voting Machines instead of Ballot boxes and ballot papers, amendment of the existing rules has become urgent and imperative.

This Amendment Rules was passed by the District Council in its Special Session held on 8th December, 2008 and in authentication whereof, we give our signature.

Hence this Amendment Rules

(Q. SUIAM)

Chief Executive Member,
Jaintia Hills Autonomous District Council,
Jowai.

(W. CHULLET)

Chairman,
Jaintia Hills Autonomous District Council,
Jowai.

(R. CHALLAM)

Secretary, District Council,
Jaintia Hills Autonomous District Council,
Jowai.

I assent to this Amendment Rules

Dated Shillong,
The 25th December, 2008.

(RANJIT SHEKHAR MOOSHAHARY)
GOVERNOR OF MEGHALAYA

APPENDIX- XVIII

[See Rule – 149(8), 153 & 154(2)]

REGISTER OF VOTERS

Election to the District Council

.....from

.....Constituency No. and Name of Polling

Station..... Part No. of Electoral

Roll.....

Sl. No.	Sl. No. of the elector in the electoral roll	Signature/Thumb impression of elector	Remarks
1.			
2.			
3.			
4.			
etc.			

Signature of the Presiding Officer